

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 19-20 (DWF/LIB)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Chris Morales,

Defendant.

This matter is before the Court upon Defendant Chris Morales' ("Defendant") objections (Doc. No. 77) to Magistrate Judge Leo I. Brisbois' June 14, 2019 Report and Recommendation (Doc. No. 75) insofar as it recommends that Defendant's Motion to Dismiss Indictment be denied and that Defendant's Motion to Supplement the Record from Defendant's Evidentiary Hearing be granted.

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Defendant's objections.

In the Report and Recommendation, Magistrate Judge Brisbois considered Defendant's request that the Court dismiss the Indictment against Defendant on the grounds that his Sixth Amendment right to counsel was violated. Specifically, Defendant argues that dismissing his federal indictment is appropriate to cure the

deficient legal representation provided by his attorney in a related state-court proceeding. The Magistrate Judge explained that it need not consider whether Defendant has met his burden to show that his attorney (who represented him in state proceedings) deficiently performed or whether Defendant suffered prejudice because the record shows that no state plea deal was ever formally offered to Defendant. (Doc. No. 75 at 6-7.) Moreover, the Magistrate Judge explained that, even assuming Defendant could show that he received ineffective assistance of counsel, there is no evidence that there was any entanglement between state prosecutors and the eventual federal prosecutors. (*Id.* at 8.)

After careful review of the Defendant's objections, the Court finds no reason to depart from the Magistrate Judge's recommendations, which are both factually and legally correct. Accordingly, and based upon the Court's *de novo* review of the record, the arguments and submissions of the parties, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Defendant Chris Morales' objections (Doc. No. [77]) to Magistrate Judge Brisbois' June 14, 2019 Report and Recommendation are **OVERRULED**.
2. Magistrate Judge Brisbois' June 14, 2019 Report and Recommendation (Doc. No. [75]) is **ADOPTED**.
3. Defendant's Motion to Dismiss Indictment (Doc. No. [56]) is **DENIED**.

4. Defendant's Motion to Supplement the Record from Defendant's Evidentiary Hearing (Doc. No. [68]) is **GRANTED**.

Dated: August 23, 2019

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge